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ABSTRACT

This brief paper analyzes the types of information about disproportionality of particular racial/ethnic groups in special education that states provided in the Biennial Performance Reports (BPRs) submitted to the U.S. Department of Education in 2002 (covering the academic years 1991-2000 and 2000-2001). A section on the study's background notes requirements under the Individuals with Disabilities Education Act to collect data on disproportionality. The BPRs of all 50 states and nine non-state jurisdictions were examined. Forty-five jurisdictions provided data on disproportionality in table form while the others provided narrative information only. Twenty-nine states used the formula recommended by the Office of Special Education Programs to determine disproportionality. Forty-four of the jurisdictions identified one or more areas/types of disproportionality, most commonly in the following disability categories: emotional disturbance (40 states), mental retardation (39 states), and specific learning disability (35 states). Thirty-five states included at least some information on how they were addressing or planning to address disproportionality. Also, 26 states expressed concerns about the collection and use of data to determine disproportionality. Among these concerns were that heightened awareness of disproportionality could lead to a drop in appropriate referrals and that poverty may affect the labeling and referral of students. (DB)

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Biennial Performance Reports-Disproportionality Quick Turn Around

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January 2003

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Quick Turn Around

Project FORUM

QTA – A brief analysis of a critical issue in special education

Biennial Performance Reports - Disproportionality

January 2003

by Eve Müller and Joy Markowitz

Overview

This Quick Turn Around (QTA) is a brief analysis of the types of information about disproportionality that states provided in their Biennial Performance Reports (BPRs), submitted to the U.S. Department of Education on May 31, 2002. These reports cover the academic years 1999-2000 and 2000-2001. The term *disproportionality* refers to the over- or under-representation of students receiving special education services from particular racial/ethnic groups relative to the representation of that racial/ethnic group in the total student population. This analysis was carried out as part of Project FORUM's cooperative agreement with the U.S. Department of Education's Office of Special Education Programs (OSEP).

This QTA is one of several BPR analyses being conducted by OSEP-funded projects. For example, Project FORUM has completed an analysis of BPR goals and indicators, the National Center on Educational Outcomes (NCEO) is completing an analysis of the assessment information and Westat is completing an analysis of the graduation and dropout data.

Background and Federal Legislation

The 1997 amendments to the Individuals with Disabilities Education Act (IDEA) require that all states collect and examine data on disproportionality as described in the following section of the regulations implementing IDEA:

Each State... shall provide for the collection and examination of data to determine if significant disproportionality based on race is occurring in the State or in the schools operated by the Secretary of the Interior with respect to – (1) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment...; and (2) the placement in particular educational settings of these children [34 CFR §300.755 (a)].

The regulations implementing IDEA further specify that in the case of significant disproportionality, states must develop a plan for addressing the problem:

In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children... the State or the Secretary of the Interior shall provide for the review and, if appropriate, revision of the policies, procedures and practices used in the identification or placement to ensure that the policies, procedures and practices comply with the requirements of Part B of the Act. [34 CFR §300.755 (b)].

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In addition, OSEP requires that states report on disproportionality in their BPRs. Specific instructions and a form for reporting were included in a memo from OSEP dated January 11, 2002, entitled the "Submission Requirements for the Biennial Performance Report." The BPR submission requirements state that BPRs must include data on the percentage of students (a) served under IDEA by race/ethnicity; (b) in specific disability categories by race/ethnicity; and (c) in specific educational settings by race/ethnicity. When significant disproportionality exists, states are also required to show how they have used disproportionality data to make adjustments or improvements in programs, policy or practice. Additional information on submission requirements for the BPR can be found on OSEP's website: http://www.ed.gov/offices/OSERS/OSEP/Monitoring.

Methodology

OSEP provided Project FORUM with copies of the 2002 BPRs filed by all 50 states and nine of the ten non-state jurisdictions required to submit BPRs.[1] The reports were reviewed, and the sections containing information on disproportionality were analyzed for the following information:

1. types of data provided in table form;
2. formulas or criteria used for determining disproportionality;
3. identification of specific areas/types of disproportionality;
4. performance targets;
5. ways in which states are addressing performance targets; and
6. concerns about the collection and reporting of disproportionality data.

One state that submitted a 2002 BPR provided data from 1989 and therefore was not included in this analysis. The 58 states and non-state jurisdictions that make up the sample are hereafter referred to as "states" in this report.

Data Provided in Table Form

A total of 45 states provided data on disproportionality in table form (see Table 1); the others provided narrative information only. Most states provided data only at the state level. However, several provided data at the district or school level. Of these 45 states, 41 provided data on the number of students in each disability category by race/ethnicity, 40 states provided data on the number of students receiving special education services by race/ethnicity and 39 provided data on the number of students in each type of education setting by race/ethnicity. Twenty-one states used separate tables to report data on 3-5 year olds.

Some tables were more "user friendly" than others. For instance, the majority of states provided comparison information on race/ethnicity percentages in the total student population alongside information on the proportion of each racial/ethnic group receiving special education services, having a particular disability or receiving services in a particular educational setting. This format was clearly designed to make it easier to identify potential areas of concern. Furthermore, many states drew attention to specific areas of concern by highlighting over- or under-representation (e.g., marking certain cells in tables as either "high" or "low").

[1] The non-state jurisdictions included in this analysis are American Samoa, Bureau of Indian Affairs, District of Columbia, Guam, Commonwealth of the Northern Mariana Islands, Marshall Islands, Palau, Puerto Rico, and the Virgin Islands.

Three states provided different and/or additional types of data in table form. For example, one state provided data on the type of school attended by students of each racial/ethnic group (e.g., public, nonpublic, charter). Another state provided data on the number of local education agencies (LEAs) in which Black[2] students were over-represented in special education.

Table 1
Race/Ethnicity Data Provided in Table Form (N=58)

Race/ethnicity data tabled by:	No. States
Disability category	41
Total receiving special education	40
Educational setting	39
3-5 year olds	21
Other	3
Total number of states providing data in table form	45

Determining Disproportionality

Although states were permitted to determine disproportionality using a state-developed formula or set of criteria, OSEP provided the following formula in the BPR General Guidance: If 30 percent of a state's general population is Black, the state should multiply 30 percent times .2 to determine the accepted difference from that 30 percent representation (six percentage points in this case). In this example, any category/data cell of Black students that is over 36 percent or under 24 percent would indicate the need for review and the possible revision of policies, procedures and practices used in the identification of disabilities or the designation of educational settings.

Twenty-nine states reported using and/or demonstrated the use of the OSEP formula; however, several did not use this formula for all data (e.g., yes, for disabilities categories and no, for educational settings) and one did not use this formula exactly as specified in the BPR General Guidance. Six states reported using the OSEP formula and another formula, six states reported using another formula only, and 17 states did not specify the formula or criteria used to determine disproportionality. Anecdotal information indicates that although some states may have used the OSEP formula for their BPR, they continue to use other criteria or formula for non-BPR purposes. More information about state criteria for determining disproportionality can be found in a previous Project FORUM document (Markowitz, 2002).[3]

Specific Types of Disproportionality

Forty-four states identified specific areas/types of disproportionality in either table or narrative form. The number of areas/types ranged from one to more than 50 per state. In some cases, it was necessary for the authors to apply the OSEP .2 formula to the data provided in table form in order to determine specific areas/types of disproportionality.

Three states and six non-state jurisdictions reported that disproportionality is not a concern and explained that this is because the student population is ethnically homogeneous. For instance, the Bureau of Indian Affairs noted that all of its students are Native American, and Palau noted that all of its students are Asian Pacific Islanders.

[2] The term "Black" is used in this document, because this is the term used in the Annual Report to Congress. However, many states used the term "African American."

[3] Markowitz, J. (2002). *State criteria for determining disproportionality*. Alexandria, VA: Project FORUM at NASDSE.

State versus Local

Thirty-eight states identified disproportionality in statewide data. Six states reported disproportionality by local school district, or both statewide and by local school district. This distinction is important because disproportionality is often quite serious in certain school districts, yet may not show up if analysis is only conducted statewide.

Special Education Overall

Thirty-three states identified disproportionality relating to special education overall for one or more racial/ethnic groups. For instance, many reported that a disproportionately low number of Asian Pacific Islanders received special education services and a disproportionately high number of Blacks received special education services.

Specific Disability Categories

Forty-two states identified racial/ethnic disproportionality relating to one or more specific disability categories.[4] For instance, many states reported that Blacks are overrepresented in the categories of emotional disturbance (ED) and mental retardation (MR). Disproportionality was most frequently reported in the category of ED (40 states). It was next most frequently reported in the categories of autism, MR, other health impairment, specific learning disability and speech or language impairment (30-39 states). Least commonly reported was disproportionality in the categories of deaf-blindness, hearing impairment, multiple disabilities, orthopedic impairment, traumatic brain injury, visual impairment and developmental delay (20-29 states). These data are summarized in Table 2.

Table 2
Number of States Reporting Racial/Ethnic Disproportionality by Disability Category (N=58)

Disability Category	No. of States
Autism	33
Deaf-Blindness	25
Emotional Disturbance	40
Hearing Impairment	27
Mental Retardation	39
Multiple Disabilities	26
Orthopedic Impairment	28
Other Health Impairment	31
Specific Learning Disability	35
Speech/Language Impairment	35
Traumatic Brain Injury	26
Visual Impairment	25
Developmental Delay	21
Total number of states reporting disproportionality relating to one or more specific disability categories	42

Educational Settings

Thirty-nine states identified disproportionality in specific educational settings. For example, many states noted that Black, Hispanic and Native American students are underrepresented in less restrictive settings and overrepresented in more restrictive settings. States most often described overrepresentation of particular racial/ethnic groups in the following more restrictive settings: outside the regular class 21-60 percent; outside the regular class over 60 percent; separate class; public separate school; private separate school, private residential facility; and correctional facility.[5]

[4] These 42 states may also have described disproportionality relating to special education overall.

[5] States did not use a common set of terms describing educational settings.

Racial/Ethnic Groups

Forty-four states identified disproportionality relating to specific racial/ethnic groups. The most common racial/ethnic disproportionality related to Black students (44 states). States reported disproportionality relating to Asian Pacific Islanders, Hispanic students and Native American students in nearly equal numbers (between 33 and 36 states). Twenty-five states reported disproportionality related to White students (e.g., overrepresentation of Whites in the disability category of autism). Two states referred to "minorities" in general rather than to specific racial/ethnic groups. These data are summarized in Table 3.

Table 3
Number of States Reporting Disproportionality by Race/Ethnicity (N=58)

Racial/Ethnic Group	No. of States
Asian Pacific Islander	36
Black	44
Hispanic	33
Native American	34
White	25
Total number of states reporting disproportionality relating to one or more specific racial/ethnic group	44

Over- and Under-Representation

Forty-three states identified overrepresentation of specific racial/ethnic groups, and 37 states described underrepresentation of specific racial/ethnic groups. Although states were most likely to report that Blacks were overrepresented in certain disability categories or educational settings and Asian Pacific Islanders were underrepresented in certain disability categories or educational settings (42 and 33 states, respectively), 26 and 20 states, respectively, reported the opposite. Hispanic and White students were slightly more likely to be underrepresented than overrepresented, and Native Americans were slightly more likely to be overrepresented than underrepresented. These data are summarized in Table 4.

Table 4
Number of States Reporting Over- and Under-Representation by Race/Ethnicity (N=58)

Racial/Ethnic Group	Over	Under
Asian Pacific Islander	20	33
Black	42	26
Hispanic	23	30
Native American	28	26
White	14	20
Total number of states reporting one or more types of over- or under-representation	43	37

Early Childhood

Twenty-one states identified racial/ethnic disproportionality in the 3 to 5 age group separately from disproportionality in the 6 to 21 age group. Some states reported similar patterns of disproportionality for the two age groups, and other states reported somewhat different patterns of disproportionality. One state noted that a disproportionately high number of White children were receiving services under Part C (birth through age 2).

Narrative Descriptions

Twenty-seven states used narratives to reiterate disproportionality findings identified in their tables, and most chose to focus on only a few of the areas/types. An additional six states identified disproportionality only in narrative form (i.e., provided no data in table form).

It is important to note that the number of specific areas/types of disproportionality

included in states' narratives is not necessarily related to the severity of disproportionality within a given state. Some states listed all areas/types that deviated even slightly from the expected percentage, whereas other states focused only on a few areas/types that presumably were of greatest concern. Furthermore, some states defined one or two areas/types of disproportionality in broad and general terms (e.g., the overrepresentation of Black students in special education overall), whereas other states identified more specific areas/types of disproportionality (e.g., the overrepresentation of Blacks in specific disability categories and/or educational settings).

Significantly, the narrative descriptions were more likely than tables to reflect what are conventionally believed to be more serious areas/types of disproportionality (e.g., overrepresentation of Black students in ED or MR).

Performance Targets

A total of 34 states reported one or more *performance targets* relating to racial/ethnic disproportionality. According to BPR submission requirements, a performance target is a long-range effect the state is hoping to accomplish in regard to disproportionality rates for students with disabilities. Performance targets varied considerably in terms of their level of specificity.

Fourteen of the 34 states included performance targets that specified a target date, target level, or both target date and target level. Of these 14 states, six included performance targets that related to a specific racial/ethnic group, six included targets that related to a specific disability category, and four included targets that related to a specific educational setting. The following is an example of a specific performance target: "Statewide, in relation to the total number of Black students' enrollment, the percentage of Black students identified as students with mental retardation or emotional disturbance will decrease by one percent annually."

Twenty states included performance goals that were general in nature. For example, "The number of students with disabilities should be proportionate with the general population."

Several states also included performance targets that addressed the collection and monitoring of data on disproportionality. For example, "Monitor new and growing populations and their representation in special education – i.e., Haitian and Somalian groups."

Addressing Disproportionality

Thirty-five states provided a narrative description of one or more of the following ways they are addressing and/or planning to address disproportionality. Several states also reported specific strategies for reducing disproportionality. These descriptions varied considerably in length – from one sentence to five pages:

- Twenty-five states reported regular review of LEA data and identification of LEAs with racial/ethnic disproportionality.
- Eighteen states noted that disproportionality at the LEA level is regularly addressed as part of the state's monitoring process.
- Seventeen states described specific procedures designed to address disproportionality, such as requirements that LEAs develop corrective action plans regarding policies, practices and

procedures for identification and placement of students with disabilities, and periodic reviews of progress by SEAs.

- Eleven states offer professional development designed to improve cultural sensitivity.
- Ten states provide technical assistance.
- Seven states provide referral guidelines to help reduce bias in referral and placement.
- Six states described plans to establish baseline data on disproportionality that would later be used to identify LEAs with potential problems.
- Five states have convened advisory boards or taskforces to examine disproportionality.

Additional state strategies currently in place or being considered include: placement-neutral funding formulas to reduce disproportionality across educational settings; collaborative work with the Office for Civil Rights (OCR); state-wide behavior initiatives to reduce disproportionality resulting from disruptive behavior; prevention services; and publications on disproportionality.

Concerns About Data

Twenty-six states expressed concerns about the collection and use of data to determine disproportionality. Twenty states cautioned that disproportionality may not always be statistically significant, particularly in states where numbers of minority students are low.

Between one and five states also expressed concern that: (1) heightened awareness of disproportionality may lead to a drop in appropriate referrals; (2) poverty may impact the labeling and referral of students; (3) disproportionality at the school level may not be reflected in SEA- or LEA-level data; and (4) the five racial/ethnic categories currently used for OSEP reporting may not allow for the examination of within group differences that exist in some states. For instance, in Minnesota, the educational support needs of African immigrants differ from those of African American students, yet both are categorized as Black. Additionally, the Mariana Islands noted that the category Asian Pacific Islanders masks within-group diversity (e.g., Chamorro, Chinese, Filipino, Korean, Marshalese, Palauan, etc.).

Applying the OSEP formula or other formulas may lead to the identification of disproportionality in almost every disability category and educational setting for almost every racial/ethnic group. Consequently, there is a need for states to determine which areas/types of disproportionality require immediate attention.

Summary and Concluding Remarks

The May 2002 BPRs indicate that special education racial/ethnic disproportionality exists in all parts of the country. More than three quarters of states (44 of the 58 included in this analysis) identified one or more areas/types of disproportionality.

Disproportionality is not limited to one or two disability categories or racial/ethnic groups. It was most commonly reported in the following disability categories: emotional disturbance (40 states), mental retardation (39 states), specific learning disability (35 states) and speech/language impairment (35 states); and in the following racial/ethnic groups: Black (44 states), Asian Pacific Islander (36 states), Native American (34 states), and Hispanic (33 states). Forty-two states reported overrepresentation of Black students and 33 states reported

underrepresentation of Asian Pacific Island students.

Thirty-five states included some information on how they were addressing or planning to address disproportionality, although the information provided was minimal. It is important to note that the BPR is not designed to reflect the full extent to which states are addressing disproportionality. Consequently, it is likely that states are doing more to address disproportionality than they described in their BPRs submitted May 31, 2002.

This QTA provides information from which to gain a better understanding of extent and nature of disproportionality, and the strategies states are using to address disproportionality. It can serve as background information for future efforts, such as the National Center on Culturally Responsive Educational Systems (NCCRESt), recently funded by OSEP. In addition, this will serve to inform efforts directed at selecting the most appropriate method to determine disproportionality (i.e., calculation or formula).

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